

This letter provides a reference to the Department's rules regarding food, drugs, medicines and medical appliances. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

February 26, 2004

Dear Xxxxx:

This letter is in response to your letter received by our office on January 5, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are writing to request a tax opinion on the taxability of our proposed sales of an Intrauterine Devices (IUD) made by AAA for birth control use. These contraceptive devices are only available for use under a prescription, as a doctor's order is required by the FDA for use of the IUD. Only a doctor or trained health-care professional under a doctor's control are permitted to administer (assess and install) and monitor these devices.

The IUD is a T-shaped device inserted into the uterus. The IUD prevents pregnancy by interfering with the successful meeting of sperm and eggs by either immobilizing sperm prior to fertilization or by changing the uterine lining in some way, thus preventing implantation. This device is only available for use by humans.

Additional information with specific details is available at WEBSITE.

Specifically, we need to know if this item qualifies for exemption as a prescription medicine or a prescription medical device or some other form of exempt property. Further, would all our sales to doctors, hospitals, or clinics, (i.e. all these customer types require doctors to be involved in the use, care, and custody of this IUD) be exempt? If the sales to these persons are not exempt, please indicate why a tax would apply. Also,

if a partial tax rate or some other type of limited exception applies, please provide this information as well.

Should you have additional questions, please don't hesitate to contact me. We look forward to a prompt reply as we are hoping to commence this venture very soon.

**DEPARTMENT'S RESPONSE:**

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see the Department's rules on our website entitled Food, Drugs, Medicines and Medical Appliances. 86 Ill. Adm. Code 130. 310. You may also wish to review prior letter rulings by the Department on your topic that can be found on the Department's website.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk